



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JUNE 15, 2022

IN THE MATTER OF:

Appeal Board No. 621547

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determination and reducing the claimant's right to receive future benefits by eight effective days and charging a civil penalty of \$340.80 on the basis that the claimant made willful misrepresentations to obtain benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed December 10, 2021 (), the Administrative Law Judge modified the initial determination to reduce the forfeit penalty to four effective days and to impose no civil penalty, and, as so modified, sustained the initial determination.

The Appeal Board, on its motion pursuant to Labor Law § 620 (3), has reopened and reconsidered the Judge's decision.

Our review of the record reveals that the case should be remanded to hold a hearing. The record was not sufficiently developed on the determination. The parties should have another opportunity to submit additional testimony and other evidence on this issue. At the further hearing, the Judge should question the claimant regarding whether she certified for benefits on September 10, 2020, whether she was asked about the reason for her job separation, her response to any such question, and why she made such response. She should be confronted with the certification record report and the document should be entered into evidence in the appropriate manner.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER